

HOUSE BILL No. 1211

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-25-4.6.

Synopsis: Tax sales. Limits the circumstances under which a tax sale purchaser may terminate the purchase before conclusion and receive a refund of a part of the purchase price. Reduces the amount of the refund. Requires reinstatement and collection of any remaining delinquencies after the terminated purchase.

Effective: July 1, 2007.

Van Haaften

January 11, 2007, read first time and referred to Committee on Government and Regulatory Reform.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1211

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-25-4.6, AS AMENDED BY P.L.169-2006,
2 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 4.6. (a) After the expiration of the redemption
4 period specified in section 4 of this chapter but not later than six (6)
5 months after the expiration of the period of redemption:

6 (1) the purchaser, the purchaser's assignee, the county executive,
7 or the purchaser of the certificate of sale under IC 6-1.1-24 may;
8 or

9 (2) in a county where the county auditor and county treasurer
10 have an agreement under section 4.7 of this chapter, the county
11 auditor shall, upon the request of the purchaser or the purchaser's
12 assignee;

13 file a verified petition in the same court and under the same cause
14 number in which the judgment of sale was entered asking the court to
15 direct the county auditor to issue a tax deed if the real property is not
16 redeemed from the sale. Notice of the filing of this petition shall be
17 given to the same parties and in the same manner as provided in section

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4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section 4.5(d) of this chapter. Any person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

(1) The time of redemption has expired.

(2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.

(3) Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid.

(4) The notices required by this section and section 4.5 of this chapter have been given.

(5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if:

(1) the verified petition referred to in subsection (a) is timely filed; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the ~~requirements~~ notice

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1 **requirement of this section, subsection (a);**
 2 the court shall order the return of the ~~purchase price amount, if any,~~
 3 **by which the purchase price exceeds the minimum bid on the**
 4 **property under IC 6-1.1-24-5(e) minus a penalty of twenty-five**
 5 **percent (25%) of the amount of the purchase price; that excess. The**
 6 **county auditor shall deposit** penalties paid under this subsection ~~shall~~
 7 ~~be deposited~~ in the county general fund.

8 (e) Notwithstanding subsection (d), in all cases in which:

9 **(1) the verified petition referred to in subsection (a) is timely**
 10 **filed;**

11 ~~(1)~~ **(2)** the petitioner under subsection (a) has made a bona fide
 12 attempt to comply with the statutory requirements under
 13 subsection (b) for the issuance of the tax deed but has failed to
 14 comply with these requirements; ~~and~~

15 ~~(2)~~ **(3)** the court refuses to enter an order directing the county
 16 auditor to execute and deliver the tax deed because of the failure
 17 to comply with these requirements; **and**

18 **(4) the purchaser, the purchaser's successors or assignees, or**
 19 **the purchaser of the certificate of sale under IC 6-1.1-24 files**
 20 **a claim with the county auditor for refund not later than**
 21 **thirty (30) days after the entry of the order of the court**
 22 **refusing to direct the county auditor to execute and deliver**
 23 **the tax deed;**

24 the county auditor shall not execute the deed but shall refund the
 25 purchase money ~~plus six percent (6%) interest per annum minus a~~
 26 **penalty of twenty-five percent (25%) of the purchase money** from
 27 the county treasury to the purchaser, the purchaser's successors or
 28 assignees, or the purchaser of the certificate of sale under IC 6-1.1-24.
 29 **The county auditor shall deposit penalties paid under this**
 30 **subsection in the county general fund. All the delinquent taxes and**
 31 **special assessments shall then be reinstated and recharged to the**
 32 **tax duplicate and collected in the same manner as if the property**
 33 **had not been offered for sale.** The tract or item of real property, if it
 34 is then eligible for sale under IC 6-1.1-24, shall be placed on the
 35 delinquent list as an initial offering under ~~IC 6-1.1-24-6. IC 6-1.1-24.~~

36 (f) Notwithstanding subsections (d) and (e), the court shall not order
 37 the return of the purchase price **or any part of the purchase price if:**

38 (1) the purchaser or the purchaser of the certificate of sale under
 39 IC 6-1.1-24 has failed to provide notice or has provided
 40 insufficient notice as required by section 4.5 of this chapter; and

41 (2) the sale is otherwise valid.

42 (g) A tax deed executed under this section vests in the grantee an

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estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 2. [EFFECTIVE JULY 1, 2007] IC 6-1.1-25-4.6, as amended by this act, applies only to tax sales held after June 30, 2007.

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